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14 Attorneys for Plaintiff,
15 Elizabeth Cabanayan

16 UNITED STATES DISTRICT COURT
17 FOR THE DISTRICT OF ARIZONA

18 Elizabeth Cabanayan,

19 Plaintiff,

20 vs.

21 Genesis Credit Management, LLC,

22 Defendant.

Case No.:

COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiff, Elizabeth Cabanayan (hereafter “Plaintiff”), by undersigned counsel,
2 brings the following complaint against Genesis Credit Management, LLC (hereafter
3 “Defendant”) and alleges as follows:
4

5 **JURISDICTION**

6 1. This action arises out of Defendant’s repeated violations of the Fair Debt
7 Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”).
8

9 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d) and 28
10 U.S.C. § 1331.
11

12 3. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), where
13 the acts and transactions giving rise to Plaintiff’s action occurred in this district and/or
14 where Defendant transacts business in this district.
15

16 **PARTIES**

17 4. Plaintiff is an adult individual residing in Avondale, Arizona, and is a
18 “person” as defined by 47 U.S.C. § 153(39).
19

20 5. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

21 6. Defendant is a business entity located in Sunnyside, Washington, and is a
22 “person” as the term is defined by 47 U.S.C. § 153(39).
23

24 7. Defendant uses instrumentalities of interstate commerce or the mails in a
25 business the principle purpose of which is the collection of debts and/or regularly
26 collects or attempts to collect debts owed or asserted to be owed to another, and is a
27 “debt collector” as defined by 15 U.S.C. § 1692a(6).
28

ALLEGATIONS APPLICABLE TO ALL COUNTS

8. Plaintiff is a natural born person allegedly obligated to pay a debt asserted to be owed to a creditor other than Defendant.

9. Plaintiffs alleged obligation arises from a transaction in which property, services or money was acquired on credit primarily for personal, family or household purposes, is a “debt” as defined by 15 U.S.C. § 1692a(5).

10. At all times mentioned herein where Defendant communicated with any person via telephone, such communication was done via Defendant’s agent, representative or employee.

11. Within the last year, Defendant began calling Plaintiff in an attempt to collect a debt.

12. Defendant called with such frequency that the obvious intent was to annoy and harass Plaintiff, in violation of the FDCPA.

13. On or around June 23, 2015, Defendant called Plaintiff at her place of employment in an attempt to collect a debt.

14. Plaintiff instructed Defendant that she was represented by an attorney.

15. Instead of ending the call, Defendant stated that it would not contact Plaintiff’s attorney and proceeded its attempt to collect the debt.

16. Before ending the conversation, Defendant insinuated that it was going to garnish Plaintiff’s wages, stating that it was going to obtain repayment of the debt “either way.”

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT, 15
U.S.C. § 1692, et seq.

12 19. The FDCPA was passed in order to protect consumers from the use of
13 abusive, deceptive and unfair debt collection practices and in order to eliminate such
14 practices.

21. Defendant communicated with Plaintiff knowing that Plaintiff was represented by an attorney, in violation of 15 U.S.C. § 1692c(a)(2).

22. Defendant engaged in conduct, the natural consequence of which was to harass, oppress, or abuse Plaintiff, in connection with the collection of a debt, in violation of 15 U.S.C. § 1692d.

23. Defendant caused Plaintiff's phone to ring or engaged Plaintiff in telephone conversations repeatedly or continuously, with the intent to annoy, abuse and harass Plaintiff, in violation of 15 U.S.C. § 1692d(5).

1 24. Defendant used false, deceptive, or misleading representations or means
2 in connection with the collection of a debt, in violation of 15 U.S.C. § 1692e.
3

4 25. Defendant, without intending to take such action, represented and/or
5 implied that nonpayment of the alleged debt would result in garnishment of Plaintiff's
6 wages or attachment of Plaintiff's property, in violation of 15 U.S.C. § 1692e(4).
7

8 26. Defendant threatened to take action that could not be legally taken or that
9 Defendant did not intend to take, in violation of 15 U.S.C. § 1692e(5).
10

11 27. Defendant failed to send Plaintiff written notice regarding the alleged
12 debt within five (5) days after its initial communication with Plaintiff, in violation of
13 15 U.S.C. § 1692g(a).
14

15 28. The foregoing acts and/or omissions of Defendant constitute numerous
16 and multiple violations of the FDCPA, including every one of the above-cited
17 provisions.
18

19 29. Plaintiff was harmed and is entitled to damages as a result of Defendant's
20 violations.
21

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff prays for judgment against Defendant for:

24 A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1);

25 B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A);

26 C. Costs of litigation and reasonable attorneys' fees pursuant to 15 U.S.C.

27 § 1692k(a)(3);
28

1 D. Punitive damages; and

2 E. Such other and further relief as may be just and proper.

3
4 **TRIAL BY JURY DEMANDED ON ALL COUNTS**

5
6
7 DATED: November 1, 2015

TRINETTE G. KENT

8
9 By: /s/ Trinette G. Kent

10 Trinette G. Kent, Esq.

11 Lemberg Law, LLC

12 Attorney for Plaintiff, Elizabeth Cabanayan